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QUIXTAR INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

JEFF POKORNY, LARRY BLENN  
and KENNETH BUSIERE on behalf of  
themselves and those similarly situated,

Plaintiffs,

v.

QUIXTAR INC.,

Defendant.

Case No. C 07-00201 SC

**[PROPOSED] ORDER  
GRANTING PLAINTIFFS' AND  
DEFENDANT QUIXTAR'S JOINT  
MOTION TO MODIFY THE  
COURT'S DECEMBER 27, 2012  
ORDER APPOINTING SPECIAL  
MASTER**

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2 *Plaintiffs Jeff Pokorny, Larry Blenn and*  
3 *Kenneth Busiere:*

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1 The Court, having considered Plaintiffs' and Quixtar's Joint Motion to Modify the Court's  
2 December 27, 2012 Order Appointing Special Master ("Joint Motion"), and

3 Good cause appearing therefor;

4 IT IS HEREBY ORDERED that:

5 The Joint Motion is GRANTED.

6 Paragraph 5 of the December 27, 2012 Order shall be and hereby is modified to read as  
7 follows:

8 5. Fairness Considerations. Pursuant to Rule 53(a)(3), the  
9 Court has considered the fairness of paying the likely fees and  
10 expenses of the Special Master from the Cash Fund. The Court  
11 believes that the appointment and use of the Special Master will  
12 materially advance the litigation, thereby achieving considerable  
13 cost-savings to all parties. Moreover, the Court notes that the  
14 parties' ASA specifically contemplates appointment of a Special  
15 Master, that the parties have consented to the Special Master's  
16 appointment, and that the ASA provides that the Special Master's  
costs shall be paid from the Cash Fund, as discussed in paragraph  
13 herein. The Court will protect against unreasonable fees,  
expenses, and delay through review and approval of the Special  
Master's work plan, fee proposal, budget, and invoices, and through  
regular communication with the Special Master.

17 Paragraph 8 of the December 27, 2012 Order shall be and hereby is modified to read as  
18 follows:


19 8. Scope of Special Master's Duties. Pursuant to Rule  
20 53(b)(2)(A), the Special Master shall assist the Court with matters  
21 such as: administering special hardship claims, including assessing  
22 whether supporting documentation is sufficient and adjudicating the  
23 appropriate dollar value of each claim, pursuant to section 6.1.2 of  
24 the ASA; preparing a report with recommendations as to whether  
25 the current limit on individual special hardship awards or the  
26 current limit on aggregate special hardship payments should be  
27 amended and with recommendations on how to effect the final  
28 distribution of cash and products, consistent with the terms of the  
ASA and the Court's own powers; preparing reports with  
recommendations on any motions that may later be filed;  
determining any issue of law or fact necessary to discharging the  
foregoing duties, subject to review as provided in paragraphs 15  
through 19; and other matters in which the Court wishes to utilize  
his services.

1 Paragraph 13 of the December 27, 2012 Order shall be and hereby is modified to read as  
2 follows:

3 13. Compensation. Pursuant to Rules 53(b)(2)(E) and 53(g), the  
4 parties shall confer with the Special Master to set his rates. The  
5 Special Master may hire or employ, at a reasonable rate, other  
6 personnel to assist in completion of the duties set forth in this  
7 Order, and the Special Master shall be reimbursed for payments  
8 made to such personnel as part of his expenses. The Special  
9 Master, having initially conferred with the parties on these and  
10 other issues on January 18, 2013, shall prepare a work plan, fee  
11 proposal, and budget for the parties' review and the Court's  
12 approval. The Special Master shall prepare a monthly invoice for  
13 his fees and expenses, which shall be paid from the Cash Fund  
14 established pursuant to the ASA. Upon approval by the Court, the  
15 parties shall promptly direct the Escrow Agent to pay such invoices.

16 IT IS SO ORDERED.

17 Dated: January 31, 2013

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19 HON. SAMUEL CONTI  
20 United States District Court Judge  
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